



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT PETITION No. 5190 of 2025

*M/S STEEL CENTRE A SOLE PROPRIETORSHIP CONCERN
THROUGH ITS PROPRIETOR RAJKUMAR GUPTA*

Versus

UNION OF INDIA THROUGH ITS SECRETARY AND OTHERS

Appearance:

*Shri Sumit Nema, learned Senior Counsel assisted by Shri Gagan Tiwari,
learned counsel for the petitioner.*

*Shri Prasanna Prasad, learned counsel for the respondents / CGST
Department.*

Reserved on : 14th July, 2025

Delivered on : 25th July, 2025

O R D E R

Per : Justice Vivek Rusia

By way of this writ petition under Article 226 of the Constitution of India, the petitioner is challenging the constitutional validity of Rule 86A of the Central Goods & Service Tax Rules, 2017 and Circular No.04/2021 dated 20.11.2021 issued by the Central Board of Indirect Taxes & Customs (CBIC). The petitioner is also challenging the action of respondents, whereby Input Tax Credit (ITC) has been blocked under Rule 86A of the Central Goods & Service Tax Rules, 2017 (in short 'the CGST Rules').

02. The facts of the case are as under:-

2.1. The petitioner is a partnership concern holding a GST



Registration Certificate. The petitioner was served with a show-cause notice dated 28.03.2024 under Section 74 of the CGST Act for disallowing ITC transferred from M/s Manasvi Trading. The petitioner filed a reply to the said notice. Thereafter, another show-cause notice dated 27.03.2024 under Section 74 of the CGST Act for disallowing ITC transferred from M/s Meenal Enterprises, and the petitioner submitted a reply to the said notice. Again, on 30.04.2024, a show-cause notice was issued to the petitioner disallowing ITC transferred from M/s Tajshree Enterprises, and the petitioner submitted to the notice on 28.05.2024. Again, a show-cause notice was issued on 30.03.2024 under Section 74 of the CGST Act for disallowing ITC transferred from M/s Arvind Trading Company, and the petitioner submitted a reply to the notice on 20.06.2024. Thereafter, again on 31.03.2024, a show-cause notice was issued to the petitioner disallowing ITC transferred from M/s Tushar Industries, and again the petitioner submitted a reply to the notice on 29.07.2024. In furtherance of these show-cause notices, the petitioner filed the replies in all the matters and now, in three to four matters, Order-in-Original (OIO) has been passed, which has been produced by Shri Prasanna Prasad, learned counsel, during the course of hearing and Mr. Nema, learned senior counsel, is not disputing this fact.

03. During the pendency of the aforesaid multiple proceedings, in one above show-cause notices, respondent No.5 has blocked the ITC of the petitioner amounting to Rs.6.6 crore in exercise of the power conferred under Rule 86A of the CGST Rules, 2017.

04. Shri Sumit Nema, learned Senior Counsel submits that the



aforesaid action has been taken without giving any opportunity of hearing to the petitioner; therefore, there is a violation of the principle of natural justice, hence, the action is liable to be declared bad in law. The petitioner has already submitted a detailed objection to respondent No. 5 against the blocking of ITC, but the same has not been decided till date. Learned Senior Counsel submits that in the case of ***K – 9 Enterprises v/s The State of Karnataka reported in [2024] taxmann.com 499 (Karnataka)***, the Division Bench of Karnataka High Court has held that the principle of natural justice must be read into Rule 86A of the CGST Rules, 2017. On this sole ground, the petitioner has challenged the constitutional validity of Rule 86A of the CGST Rules.

05. Shri Prasanna Prasad, learned counsel for the respondents, submits that the action has been taken strictly in accordance with Rule 86A of the CGST Rules, which cannot be said to be arbitrary or excessive use of power.

06. As per the reply filed by respondents, as on today, five show-cause notices have been issued and adjudicated, in which the total demand comes to Rs 3,98,26,102/-. This is a temporary blocking for the period of one year, and meanwhile, the Department is bound to decide all the objections under sub-rule (2) of Rule 86A. Shri Prasanna Prasad, learned counsel has placed reliance upon a judgment delivered by the High Court of Judicature at Madras in the case of ***Tvl. Skanthaguru Innovations Private Limited v/s Commercial Tax Officer & Another (W.P. No.29872 of 2024)*** decided on 28.11.2024, in which the action under Rule 86A of the CGST Rules has been upheld.



APPRECIATION & CONCLUSION

07. Rule 86A of the CGST Rules, 2017 is reproduced below:-

"86A. Conditions of use of amount available in electronic credit ledger-(1) Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible inasmuch as—

(a) the credit of input tax has been availed on the strength of tax invoices, debit notes or any other document prescribed under rule 36—

(i) issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

(ii) without receipt of goods or services or both; or

(b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or

(c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

(d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36, may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount..

(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction."

08. It is clear from the aforesaid provision of law that if the Commissioner or an officer authorized by him in this behalf having



reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible, then learned authority may, for the reasons to be recorded in writing not allow the debit of an amount equivalent to such credit in electronic credit ledger which called blocking of ITC. Sub-rule (2) provides that the Commissioner, or the officer authorized by him under sub-rule (1), may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

09. In the case of *K-9 Enterprises (supra)*, the Division Bench of the Karnataka High Court has upheld the validity of the said provision and only directed for compliance with the provisions of the principle of natural justice while exercising the power conferred under Rule 86A of the CGST Rules, 2017.

10. Under Rule 86A (2) of the CGST Rules, 2017, the post-decisional hearing has been provided by the authority. The blocking of the chain is like an immediate action which is required to be taken by the authorities, if they have reasons to believe that the recovery would not be possible in future. If the proposed action is disclosed by issuing the show-cause notice to the assessee or dealer, he may avail the input tax available in the electronic credit ledger, and no amount will be available to recover in future. Therefore, looking to the immediate action which is liable to be taken, especially in the case of availment of Input Tax Credit illegally or ineligibility, such provision, issuance of notice has not been provided in the Rules. In order to protect the interest of the dealer / assessee, there is provision for submission of objection under sub-rule (2) and upon production of material and satisfaction, the ban is liable to be lifted. Even



otherwise, under sub-rule (3), the period of ban is only one year, therefore, on this ground, this provision cannot be declared as unconstitutional.

11. In view of the above discussion, since there is a provision of opportunity of hearing in the rule and the petitioner has submitted an objection in writing under Rule 86A(2) of the CGST Rules, 2017, it is for the Commissioner to decide that objection expeditiously. If the Commissioner, on the basis of the reply, finds that such blocking is no longer required, then he may lift the blocking. As on today, five show-cause notices have been adjudicated and the total demand is Rs.3,98,26,102/-, as stated in reply to 5.4 by the respondents, therefore, the same can be taken into consideration by the commissioner.

12. In view of the above, the competent authority is directed to decide on the lifting of blocking, fully or partially, in accordance with the law. The present Writ Petition stands **disposed of** by directing the respondents to pass a speaking order under Rule 86(2) of the CGST Rules, 2017, within a period of 15 days from the date of production of a certified copy of this order.

(VIVEK RUSIA)
J U D G E

(BINOD KUMAR DWIVEDI)
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